

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MATTHEW McCASKILL,

Plaintiff,

v.

9:13-CV-1487
(GTS/DJS)

W. BRESETT, Officer, Riverview Corr. Fac.;
GARRABRANT, Sergeant, Riverview Corr. Fac.; and
C.O. HUCHENS, Corr. Officer, Riverview Corr. Fac.,

Defendants.

APPEARANCES:

MATTHEW McCASKILL

Plaintiff, *Pro Se*

P.O. Box 3040

Schenectady, NY 12303

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Counsel for Defendants

The Capitol
Albany, New York 12224

CHRISTOPHER J. HUMMEL, ESQ.
Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* prisoner civil rights action filed by Matthew McCaskill (“Plaintiff”) against the three above-captioned employees of the New York State Department of Corrections and Community Supervision (“Defendants”) at Riverview Correctional Facility in Ogdensburg, New York, are (1) Defendants’ motion for summary judgment and (2) United States Magistrate Daniel J. Stewart’s Report-Recommendation recommending that Defendants’ motion be granted and Plaintiff’s Complaint be dismissed for failure to exhaust his available administrative remedies. (Dkt. Nos. 73, 86.) Plaintiff has not

filed an objection to the Report-Recommendation and the deadline in which to do so has expired. (See generally Docket Sheet.) After carefully reviewing the relevant papers herein, including Magistrate Judge Stewart's thorough Report-Recommendation, the Court can find no clear error in the Report-Recommendation: Magistrate Judge Stewart employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts.¹ As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein; Defendants' motion for summary judgment is granted; and Plaintiff's Complaint is dismissed.

ACCORDINGLY, it is

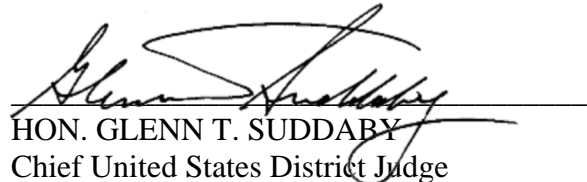
ORDERED that Magistrate Judge Stewart's Report-Recommendation (Dkt. No. 86) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion for summary judgment (Dkt. No. 73) is **GRANTED**; and it is further

ORDERED that Plaintiff's Complaint (Dkt. No. 1) is **DISMISSED** and the Clerk of the Court shall enter Judgment for Defendants and close this action.

The Court certifies that an appeal from this Decision and Order would not be taken in good faith.

Dated: March 24, 2017
Syracuse, New York


HON. GLENN T. SUDDABY
Chief United States District Judge

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).